

RECEIVED
U.S. DISTRICT COURT
MASSACHUSETTS

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT F. URBANO,
Plaintiff,

3-2 A 11:57
CIVIL ACTION
DOCKET NO. 05CV11480MLW

vs.

AQUA INVESTMENTS LLC
& IT'S PRINCIPALS,
Defendants.

OPPOSITION TO DEFENDANTS' MOTION TO STRIKE
PLAINTIFF'S MOTION FOR JUDGMENT ON PLEADINGS

1. On July 27, 2005 Plaintiff was served with Defendants' Motion to Strike Plaintiff's Motion for Judgment on the Pleadings pursuant to MRCP 12(c).
2. Should this Court agree with Defendants' allegations as to their admissions, despite a multiplicity of admissions in their Answer and elsewhere, Plaintiff's Motion should be considered a Motion for Summary Judgment pursuant to MRCP Rule 56.
3. Defendants' Answer First Affirmative Defense alleges that "Plaintiff failed to state a claim upon which relief may be granted pursuant to Mass. R. Civ. P. 12(b)(6)." If true, removal from

the State Court was in error and Defendants' Defense supra should have been presented in State Court. The instant action must be returned to the State Court. Plaintiff so moves.

WHEREFORE, Plaintiff prays that this Court deny Defendants' Motion to Strike.

Robert F. Urbano Dated 8/1/05
Robert F. Urbano - Pro Se
PO Box 164 Rockport MA 01966
978-526-1519

CERTIFICATE OF SERVICE

Plaintiff hereby certifies that on 8/1/05 a true copy of the within Opposition was served on Defendants' Attorney Todd J. Bennett Esq. at 404 Main St Suite One, Wilmington MA 01887 by first-class mail postage prepaid.

Robert F. Urbano